

REMARKS/ARGUMENTS

Initially, Applicants would like to express their appreciation to the Examiner for the detailed Official Action. Applicants note, however, that the Official Action did not address the Supplemental Information Disclosure Statement filed by Applicants on November 12, 2008. Thus, Applicants respectfully request that the Examiner consider this Supplemental Information Disclosure Statement and return a signed copy of the attached Form PTO-1449 to Applicants in the next Official communication.

In the Official Action, the Examiner rejected claims 1 and 3-9 under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. Claims 1 and 3-9 were also rejected under 35 U.S.C. § 112, second paragraph, as being indefinite.

The 35 U.S.C. 112, first paragraph, Rejection

With regard to the rejection of claims 1 and 3-9 under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement, the Official Action asserted that the claims contain subject matter that was not described in the specification in such a way as to reasonably convey to one skilled in the art that the inventors, at the time the application was filed, had possession of the claimed invention. In particular, with regard to claims 1, 8, and 9, the Official Action asserted that the claim features of “a setting unit which sets, to the searched-out cache entry, the caching termination attribute indicating that caching is allowed to be terminated, while said cache memory is not being accessed by the processor” and “wherein storing of the address range in said holding unit is performed according to a data transfer instruction for transferring data to said holding unit” find no support in the original disclosure and are considered new matter. The Official Action further asserted that Applicants’

specification paragraph [0060], paragraph [0049], and Figure 6C do not support the above cited claim features.

With regard to the “a setting unit which sets, to the searched-out cache entry, the caching termination attribute indicating that caching is allowed to be terminated, while said cache memory is not being accessed by the processor” (emphasis added) claim feature, the Examiner’s attention is drawn to Applicants’ Figure 5, and the corresponding description, which illustrates a block diagram showing an example of the structure of the C flag setting unit. Applicants submit that the claimed “setting unit” corresponds to the C flag setting unit (40) in Figure 5 that sets, to the searched-out cache entry, a caching termination attribute, which corresponds to the C flag. The Examiner’s attention is next drawn to paragraph [0038] of Applicants’ specification, as filed, which discloses that the C flag indicates whether or not caching is allowed to be terminated.

Further, the Examiner’s attention is drawn to Applicants’ Figure 8, and the corresponding description, which illustrates a flowchart showing an example of the C flag setting by the flag rewriting unit (407), which is a component of the C flag setting unit (40) illustrated in Figure 5. Applicants submit that filed specification paragraph [0060] distinctly discloses that this C flag setting process is conducted while the cache memory (3) is not accessed by the processor (1), as claimed.

In view of the above discussion, Applicants submit that the claimed expression “a setting unit which sets, to the searched-out cache entry, the caching termination attribute indicating that caching is allowed to be terminated, while said cache memory is not being accessed by the processor” is adequately supported in the original disclosure and is not prohibited new matter.

With regard to the “wherein storing of the address range in said holding unit is performed according to a data transfer instruction for transferring data to said holding unit” claim feature, the Examiner’s attention is drawn to Applicants’ Figures 5, 6A, 6B, 6C, and 6D, and their corresponding descriptions in specification paragraphs [0049]-[0054]. The cited sections of Applicants’ disclosure illustrate examples of data transfer instructions for transferring data to the holding unit that performs the storing of the address range in the holding unit, with paragraphs [0051]-[0052] explicitly referring to the address range and the related instructions for transferring data.

In view of the above discussion, Applicants submit that the claimed expression “wherein storing of the address range in said holding unit is performed according to a data transfer instruction for transferring data to said holding unit” claim feature is adequately supported in the original disclosure and is not prohibited new matter.

Thus, Applicants submit that Applicants’ specification provides sufficient written description to reasonably convey to one skilled in the art, that the inventors, at the time of the application was filed, had possession of the claimed invention. Accordingly, Applicants respectfully request that the rejection of claims 1 and 3-9 under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement, be withdrawn.

The 35 U.S.C. § 112, second paragraph, Rejection

With regard to the rejection of claims 1 and 3-9 under 35 U.S.C. § 112, second paragraph, as being indefinite, the Official Action asserted that the claims fail to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. In particular, the Official Action asserted that the claim feature “a setting unit which sets, to the searched-out cache entry, the caching termination attribute indicating that caching is allowed to

be terminated, while said cache memory is not being accessed by the processor” (emphasis added) render the claims indefinite in that they define the invention in terms of a negative limitation.

Applicants respectfully submit that the emphasized feature noted above is not a negative claim limitation, but is actually positively reciting the exact time period in which the setting unit sets the caching termination attribute. In other words, the cited claim language is positively reciting one of two possible time periods, which would be: (1) while the cache memory is being accessed by the processor, and (2) while the cache memory is not being accessed by the processor. Thus, Applicants submit that the cited claim feature is actually a positive claim limitation, and not a negative claim limitation.

For the sake of argument, even if this feature is construed as a negative claim limitation (and Applicants submit it is not), the Examiner’s attention is drawn to M.P.E.P. Section 2173.05(i), which states that the *current view* of the courts is that there is nothing inherently ambiguous or uncertain about a negative limitation. This M.P.E.P. section also states that so long as the boundaries of the patent protection sought are set forth definitely, albeit negatively, the claim complies with the requirements of 35 U.S.C. § 112, second paragraph. This M.P.E.P. section further characterizes that the *In re Schechter* court case cited by the Examiner represents *old* case law, which had a more critical view of negative claim limitations when compared to the current view of the courts.

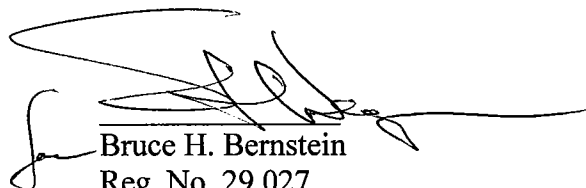
In view of the above, Applicants submit that Applicants’ pending claims are definite, and distinctly claim the subject matter which Applicants regard as the invention. Accordingly, Applicants respectfully request that the rejection of claims 1 and 3-9 under 35 U.S.C. 112, second paragraph, as being indefinite, be withdrawn.

SUMMARY

From the arguments and remarks provided above, Applicants submit that all of the claims pending for consideration in the present application are patentable. In this regard, Applicants note that no prior act rejection has been set forth against the claims. Applicants also submit that Applicants' specification provides sufficient written description to reasonably convey to one skilled in the art, that the inventors, at the time of the application was filed, had possession of the claimed invention. Further, Applicants submit that the pending claims are definite, and distinctly claim the subject matter which Applicants regard as the invention. Accordingly, reconsideration of the outstanding Official Action is respectfully requested and an indication of allowance of claims 1 and 3-9 is now believed to be appropriate.

If the Examiner has any questions, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully Submitted,
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